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16
17 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
18
19 IN AND FOR THE COUNTY OF YAVAPAI

20 STATE OF ARIZONA,

21 Plaintiff,

22 vs.

23 STEVEN CARROLL DEMOCKER,

24 Defendant.

25 No. P1300CR20081339

26 Div. 6

27 **DEEFNDANT'S REPLY IN**
28 **SUPPORT OF MOTION TO**
COMPEL BIOLOGICAL
EVIDENCE

29 Mr. DeMocker requests, pursuant to Arizona Rules of Criminal Procedure
30 15.1(b)(4)(8) and 15.1(e) that the Court compel the State to provide disclosure of the
31 requested information regarding biological evidence no later than October 20, 2009.
32 This information is critical to Mr. DeMocker's ability to prepare for his defense in this
33 death penalty case. The State's disclosure deadline was July 15, 2009 and trial is set in
34 May of 2010.

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2009 OCT 20 AM 9:47

JEANNE HICKS, CLERK ✓

BY: Shauna K. [Signature]

1 The 36th Supplemental disclosure contained roughly 2,600 pages that were
2 produced in non-sequential order. After spending significant time and resources getting
3 the documents in numerical order, counsel discovered that the following responsive
4 documents were produced:

5 Proficiency logs for "KAS," and "KZD" with no other identification; an
6 Extraneous DNA Investigation Log with entries regarding "KAS" and "KDZ;" chain of
7 custody on a ladder; STR frequency reports for some items; a resume for Matthew
8 Lovelace; a resume for John Hoang; protocols for hair analysis and track evidence.
9 Additional testing regarding biological evidence was also produced as well as duplicates
10 of testing already produced. No information was produced regarding the Sorenson
11 Forensics Lab or the experts identified from that lab. Nor was complete disclosure
12 made regarding the following:

- 13 1. The Case File: a copy of the entire case file, including all reports made by
14 the DPS and Sorenson DNA Analysis Units in connection with this case.
15 If the files include photographs, include photographic quality copies.
16 Include laboratory bench notes, worksheets and data on serology,
17 extraction, amplification, quantification and capillary electrophoresis.
- 18 2. Laboratory Protocols: a copy of all Standard Operating Protocols (SOPs)
19 used in connection with the testing in both Sorenson and DPS's
20 laboratory. Include all SOPs for evidence collection, transport and storage
21 as well as for chain of custody.
- 22 3. Chain of Custody and Current Disposition of Evidence: copies of all
23 records that document the treatment and handling of biological evidence
24 in the case, from the initial point of collection up to the current
25 disposition. This information should include documentation which
26 indicates where and how the materials were stored (temperature and type
27
28

1 of container), the amount of evidence material which was consumed in
2 testing, the amount of material which remains, and where and how the
3 remaining evidence is stored (temperature and type of container).

- 4 4. Software: a list of all commercial software programs used in the DNA
5 testing in this case, including the name of the software program, the
6 manufacturer and the versions used in this case by both labs.
- 7 5. Macros: If the results produced by the software are dependent upon the
8 instructions contained in macros, copies of any macros used.
- 9 6. Data Files: copies of all data files created and used in the course of
10 performing the testing and analyzing the data in this case. These files
11 should include all data necessary (a) to independently reanalyze the raw
12 data, and (b) to reconstruct the analysis performed in this case.
- 13 7. STR Frequency Tables: copies of any allelic frequency tables relied upon
14 in making statistical estimates in this case. If the laboratory relied upon
15 published or publicly available data, the request may be satisfied by
16 providing a specific reference to the source. Provide copies of all
17 documentation of validation data for the STR methods used by either DPS
18 or Sorenson Laboratory.
- 19 8. Documentation of Corrective Actions for Discrepancies and Errors: a
20 copy of all contamination logs and all documents of corrective actions
21 maintained by the labs that performed DNA testing in this case. If either
22 of the laboratories do not comply with the requirement of the DNA
23 Advisory Board that it maintain this documentation, respond: "The
24 laboratory does not comply with the DAB requirement that it document
25 corrective actions."
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1 All documentation of any audits, reviews, or corrective actions that have
2 occurred within 24 months prior to any testing in this case and any time
3 between that testing and the present. Also provide all documentation of
4 any and all corrective actions associated with this case and with all cases
5 done by the analysts working on this case.

- 6 9. Laboratory Personnel: background information about each person
7 involved in conducting or reviewing the DNA testing performed in this
8 case, including (a) the current resume of each individual, (b) the job
9 description of each individual and (c) a summary of each individual's
10 proficiency test results. A copy of all records of the evidence collection
11 training received by the criminalists involved. Also a list of each person
12 who has access to the evidence.
- 13 10. External Audit: a copy of the last external audit for accreditation for DPS
14 and Sorenson Laboratory. Also, confirmation that no other biological
15 evidence, examination or testing has been undertaken apart from what has
16 been disclosed to date. If there have been any additional tests, results and
17 all other related information with respect to those tests.

18 **CONCLUSION**

19 For these reasons defendant Steven DeMocker, by and through counsel, hereby
20 requests that this Court order the State to respond to the above requests for disclosure no
21 later than October 20, 2009.

22 DATED this 20th day of October, 2009.

23
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ORIGINAL of the foregoing filed
this 20th day of October, 2009, with:

Jeanne Hicks
Clerk of the Court
Yavapai County Superior Court
120 S. Cortez
Prescott, AZ 86303

COPIES of the foregoing hand delivered this
this 20th day of October, 2009, to:

The Hon. Thomas B. Lindberg
Judge of the Superior Court
Division Six
120 S. Cortez
Prescott, AZ 86303

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